

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U 902 E) for Authority to Enter into Purchase Power Tolling Agreements with Escondido Energy Center, Pio Pico Energy Center and Quail Brush Power.

Application 11-05-023
(Filed May 19, 2011)

DECISION GRANTING COMPENSATION CLAIM TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-03-029

Claimant: TURN	For contribution to D.13-03-029
Claimed (\$): \$7,234.86	Awarded (\$): \$7,238.86
Assigned Commissioner: Mark Ferron	Assigned ALJ: Hallie Yacknin

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	<p>D. 13-03-029 determines a local capacity requirement need and directs San Diego Gas & Electric Company to procure up to 298 megawatts of local generation capacity beginning in 2018. It grants SDG&E authority to enter into a purchase power tolling agreement with Escondido Energy Center, but denies the purchase power tolling agreements with Pio Pico Energy Center and with Quail Brush Power, without prejudice to a renewed application for their approval if amended to match the timing of the identified need, or upon a different showing of need.</p> <p>D.13-03-029 also authorizes recovery of the costs of the Escondido Energy Center from all distribution customers consistent with the Commission’s Cost Allocation Mechanism.</p>
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	January 31, 2012	Correct
2. Other Specified Date for NOI:	n/a	
3. Date NOI Filed:	March 1, 2012	Correct
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.11-11-008	Correct
6. Date of ALJ ruling:	01/03/2012	Correct
7. Based on another CPUC determination (specify):	n/a	
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.11-11-008	Correct
10. Date of ALJ ruling:	01/03/2012	Correct
11. Based on another CPUC determination (specify):	n/a	
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
14. Date of Issuance of Final Order or Decision:	March 28, 2013	Correct
15. File date of compensation request:	May 28, 2013	Correct
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
9 and 13	TURN	Correct	In its NOI in this proceeding, TURN relied upon the finding of significant financial hardship and customer status issued in P. 10-08-016 on 11/22/2010.

PART II: SUBSTANTIAL CONTRIBUTION**A. In the field's below, describe in a concise manner Claimant's contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).**

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
<p><i>Capacity Allocation Mechanism:</i></p> <p>TURN argued that the CAM method of allocating costs to all customers should be applied due to the determination that this capacity was required for local reliability, to comply with statutory requirements, and to parallel the Commission's actions in the LTPP proceeding.</p> <p>The original Alternate Proposed Decision did not adopt the CAM procedure, but the decision was modified in response to arguments by TURN and DRA to adopt the CAM allocation.</p>	<p>TURN Comments on APD, December 10, 2012, p. 2.</p> <p>TURN Ex Parte Notice, December 14, 2012.</p> <p>D.13-03-029, p. 21 ("We are persuaded by these arguments that the Escondido Energy Center is eligible for CAM treatment and we do not need to wait for additional information.") and p. 22 ("However, as described above, TURN and DRA persuasively argued that the Commission could make a determination about the applicability of the CAM to any approved projects.")</p>	Yes
<p><i>Authorization of Pio Pico and Quail Brush contracts:</i></p> <p>TURN did not participate actively in the original needs determination phase of the proceeding. However, TURN lobbied the Commission after issuance of the proposed decisions, and in response to interventions by project developers, to ensure that the Commission adopted a contract authorization outcome that is consistent with the needs determination and that protects ratepayers against unnecessary</p>	<p>TURN Ex Parte Notices: February 11, 2013 and February 15, 2013.</p> <p>D.13-03-029, p. 15 ("It would not be reasonable to pay for that excess capacity for four of the 20-year terms of the PPTAs associated with Pio Pico Energy Center and Quail Brush Energy Project. Accordingly, we deny approval of the Pio Pico Energy Center and Quail Brush Energy Project PPTAs, without prejudice to a renewed application for their approval, if amended to</p>	Yes

costs.	match the timing of the identified need.”)	
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	Correct
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Correct
c. If so, provide name of other parties: NRDC, CEJA, Sierra Club		In addition to the parties listed, the following were also parties to this proceeding: Utility Consumers' Action Network, NRG Energy, Inc., Alliance for Retail Energy Markets, Direct Access Customer Coalition, Western Power Trading Forum, & The Energy Users Forum, the City of Carlsbad and Carlsbad Housing and Redevelopment Agency, and the California Independent System Operator Corporation
d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: TURN's compensation in this proceeding should not be reduced for duplication of the showings of other parties. In a proceeding involving multiple participants, it is virtually impossible for TURN to completely avoid some duplication of the work of other parties. Nevertheless, TURN's participation in this proceeding was extremely limited (less than 20 hours total) at least partly due to our understanding that other parties would take positions concerning need determination that substantially reflected TURN's position, and due to our original expectation that UCAN would be active in this proceeding. DRA and the environmental intervenors (NRDC, CEJA, Sierra Club) took the lead on issues related to		We make no reductions to TURN's claim for unnecessary duplication of effort with other parties.

<p>needs determination, and TURN did not expend significant resources in the original testimony and hearing portion of the case. This is reflected in the very limited number of hours in this compensation request. TURN did participate at the latter stage of the proceeding to advocate for appropriate application of the needs determination to the contracting process.</p> <p>TURN closely coordinated with DRA at various stages regarding the CAM issue. DRA took the lead in submitting testimony on this issue, while TURN took the lead during ex parte lobbying concerning the CAM issue.</p> <p>Any incidental duplication that may have occurred here was more than offset by TURN’s unique contribution to the proceeding. Under these circumstances, no reduction to our compensation due to duplication is warranted given the standard adopted by the Commission in D.03-03-031.</p>	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

<p>a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation:</p> <p>TURN’s participation resulted in two significant economic benefits to SDG&E ratepayers. First, TURN’s participation regarding the CAM cost allocation significantly contributed to the allocation of the costs of the Escondido Energy Center to all customers, rather than just bundled customers. While exact cost data is confidential, TURN very roughly estimates annual capacity costs for a 45 MW contract (conservatively assuming a capacity price of \$40/kw-yr) at about \$1,800,000. Direct access accounts for about 12% of statewide load. Assuming purely for convenience of calculation a DA load of 10% in SDG&E’s service territory, the annual savings to bundled ratepayers will be approximately \$180,000 per year for the twenty-five year term of the contract. These numbers are conservative since the costs of new capacity is likely higher.</p> <p>Second, TURN’s participation contributed to the rejection of the Pio Pico and Quail Brush contracts without prejudice. The savings to ratepayers due to the avoided capacity cost of 400 MW of excess capacity for four years, conservatively assuming a new capacity price</p>	<p style="text-align: center;">CPUC Verified</p> <hr/> <p>Except as noted below (in Parts III-B and III-D) regarding specific hourly rates, we agree that TURN’s hours are reasonable and that its efforts resulted in measurable benefits to customers, which far outweigh the cost of its participation</p>
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<p>of \$40/kw-yr, is \$16,000,000 per year.</p> <p>TURN’s participation also contributed to the policy outcome of proper timing of resource additions, and proper consideration of needs outcomes in the actual procurement authorization.</p>	
<p>b. Reasonableness of Hours Claimed.</p> <p>TURN’s attorneys and consultants are claiming less than twenty hours total in this compensation request, which is an extremely limited amount of time given the significant resource needs and cost allocation issues addressed in this proceeding. TURN cautions that normally we would expand significantly more time in such a proceeding. In this particular case, resource constraints, and our initial evaluation of the participation of other parties, caused TURN to significantly limit our participation.</p>	<p>Except as noted below (in Parts III-B and III-D) regarding specific hourly rates, we agree that TURN’s hours are reasonable and that its efforts resulted in measurable benefits to customers, which far outweigh the cost of its participation</p>
<p>c. Allocation of Hours by Issue</p> <p>TURN’s participation was split fairly evenly between addressing 1) the CAM cost allocation, and 2) the appropriateness of authorizing the Pio Pico and Quail Brush contracts in light of the need determination reached by the PD, and in light of other similar decisions concerning procurement contracting.</p>	<p>Except as noted below (in Parts III-B and III-D) regarding specific hourly rates, we agree that TURN’s hours are reasonable and that its efforts resulted in measurable benefits to customers, which far outweigh the cost of its participation</p>

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Marcel Hawiger	2011	3.75	\$350	D12-05-034, p. 10.	\$1,312.50	3.75	\$350	\$1,312.50
Marcel Hawiger	2012	3.75	\$375	Res. ALJ-281 + 5% step A.10-11-015 (SCE GRC)	\$1,406.25	3.75	\$375	\$1,406.25
Marcel Hawiger	2013	5.75	\$385	Res. ALJ-287 (DRAFT 3/13/13)	\$2,213.75	5.75	\$385	\$2,213.75
Matthew Freedman	2011	0.75	\$350	Requested in A.10-07-017	\$262.50	0.75	\$350	\$262.50
Matthew Freedman	2012	0.25	\$370	Res. ALJ-281 + 5% step A.10-11-015 (SCE	\$92.50	0.25	\$370	\$92.50

				GRC)				
Kevin Woodruff	2013	4.25	\$240	D.12-11-050	\$1,020.00	4.25	\$240 ¹	\$1,020.00
Subtotal:					\$6,307.50	Subtotal:		\$6,307.50
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
[Person 1]			\$					
Subtotal:						Subtotal:		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Marcel Hawiger	2013	4.75	\$192.5	1/2 of approved 2013	\$914.38	4.75	\$192.50	\$914.38
Subtotal:					\$914.38	Subtotal:		\$914.38
COSTS								
#	Item	Detail			Amount	Amount		
	Copies				\$4.00	\$8.00		\$8.00
	Postage				\$8.98	\$8.98		\$8.98
Subtotal:					\$12.98	Subtotal:		\$16.98
TOTAL REQUEST \$:					\$7,234.86	TOTAL AWARD \$:		\$7,238.86
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants, and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Reasonable claim preparation time typically compensated at 1/2 of preparer's normal hourly rate.</p>								
Attorney		Date Admitted to CA BAR²			Member Number		Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation	
Marcel Hawiger		January 23, 1998			194244		No.	
Matthew Freedman		March 29, 2001			214812		No.	

¹ Although Resolution ALJ-287 provides for a 2% Cost-of-Living Adjustment (COLA) on 2013 rates, TURN has notified Commission Staff to keep Mr. Woodruff's rate at \$240 per hour for work he completed in 2013. TURN specified via e-mail that Mr. Woodruff's 2013 billable rate was \$240 per hour; the same level it was in 2011.

² This information may be obtained at: <http://www.calbar.ca.gov/>.

C. TURN's Additional Comments and Attachments:

Attachment or Comment #	Description/Comment
Attach. 1	Certificate of Service
Attach 2 – Time Sheets	A daily listing of the hours and specific tasks performed by TURN attorneys Freedman and Hawiger and TURN's consultant Kevin Woodruff are contained in Appendix A. TURN's attorneys maintained detailed contemporaneous time records indicating the number of hours devoted to work on this case. In preparing this appendix, Mr. Hawiger reviewed all of the recorded hours devoted to this proceeding and included only those that were reasonable for the underlying task.
Attach 3 – Expenses	Attachment 3 contains the detailed itemization of expenses for this proceeding.
Comments 1 – Copying Costs	Copying costs were billed at \$0.10/page.

D. CPUC Disallowances & Adjustments:

#	Reason
1. Adjustment to amount claimed for copies	After reviewing TURN's supporting documentation for costs incurred, the Commission discovered that TURN had included an incorrect amount for copies. Instead of \$4 for copies as detailed in TURN's claim herein, the cost should have been \$8 per its workpapers. The total shown by TURN in its claim herein for Costs is correct.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
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B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?	Yes
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FINDINGS OF FACT

1. The Utility Reform Network has made a substantial contribution to D.13-03-029.
2. The requested hourly rates for The Utility Reform Network's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.

3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$7,238.86.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Utility Reform Network is awarded \$7,238.86.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company shall pay The Utility Reform Network (TURN) the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning August 11, 2013, the 75th day after the filing of The Utility Reform Network's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at Redding, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision? No
Contribution Decision(s):	Decision 13-03-029	
Proceeding(s):	A.11-05-023	
Author:	Judge Hallie Yacknin	
Payer(s):	San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier	Reason Change/Disallowance
The Utility Reform Network	5/28/13	\$7,234.86	\$7,238.86	No	

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Marcel	Hawiger	Attorney	TURN	\$350	2011	\$350
Marcel	Hawiger	Attorney	TURN	\$375	2012	\$375
Marcel	Hawiger	Attorney	TURN	\$385	2013	\$385
Matthew	Freedman	Attorney	TURN	\$350	2011	\$350
Matthew	Freedman	Attorney	TURN	\$370	2012	\$370
Kevin	Woodruff	Expert	TURN	\$240	2013	\$240

(END OF APPENDIX)